

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRUCE ALLEN GAGNON,

Plaintiff,

V.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 13-cv-05858 BHS

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on defendant's stipulated motion to remand the matter to the administration for further consideration. (ECF No. 15.)

After reviewing defendant's stipulated motion and the relevant record, the undersigned recommends that the Court grant defendant's motion, and reverse and remand this matter to the Acting Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

On remand, based on the parties' stipulation, this Court recommends that the administrative law judge ("ALJ") hold a new hearing and issue a new decision.

1 The ALJ will: update the medical record and obtain testimony from an appropriate
2 medical expert regarding the nature, severity and onset of the plaintiff's medically determinable
3 impairments (20 C.F.R. §§ 416.908-909 and 416.912-913). The ALJ will weigh all medical
4 opinions of record before determining whether or not plaintiff's impairment(s) meets or equals
5 the severity of a listed impairment, including, but not limited to Listing 5.05 (*see also* 20 C.F.R.
6 Part 404, Subpart P, App. 1, §5.00D.5.) (20 C.F.R. §§ 416.920(d), 416.925-926, and 416.927).
7 The ALJ will, as necessary, reconsider the credibility of plaintiff's allegations, reassess
8 plaintiff's residual functional capacity, and obtain supplemental vocational expert evidence at
9 steps four and five of the sequential evaluation process (20 C.F.R. §§ 416.929, 416.945, 416.960,
10 and 416.966; SSRs 96-7p and 00-4p). The ALJ will consider further if DAA is a contributing
11 factor material to a finding of disability (SSR 13-2p).

12 The ALJ will take any other actions necessary to develop the record. Plaintiff may
13 submit additional evidence and arguments to the ALJ on remand.

14 This case should be reversed and remanded on the above grounds pursuant to sentence
15 four of 42 U.S.C. § 405(g). The parties have stipulated that plaintiff is entitled to reasonable
16 attorney's fees, expenses and costs pursuant to 28 U.S.C. § 2412(d), following proper request to
17 this Court.

18 Given the facts and the parties' stipulation, the Court recommends that the District Judge
19 immediately approve this Report and Recommendation and order that the case be **REVERSED**
20 and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

21 Dated this 20th day of February, 2014.

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24 J. Richard Creatura
United States Magistrate Judge